

SCL

SOCIETY OF CONSERVATIVE LAWYERS



Aspects of Education Policy for the next Government

SOCIETY OF CONSERVATIVE LAWYERS

Aspects of Education Policy for the next Government

Amy Woolfson – September 2014

FOREWORD

This fine paper is the work of Amy Woolfson who is the Society of Conservative Lawyers' second Lyell Scholar. The Lyell Scholarship is named after the late Rt Hon the Lord Lyell of Markyate QC who was Solicitor-General between 1987 and 1992 and Attorney-General between 1992 and 1997: the longest continuously serving law officer for more than a hundred years. He was the Chairman of the Society at the time of his death in 2010. The Scholarship is funded by the legacy left to the Society by Pamela Thomas OBE who served as its Secretary for over twenty years. The Society would like to thank Simon Randall CBE for the guidance and editorial assistance he gave the author during the production of this pamphlet.

The Conservative government which left office in 1997 had based its schools policy on granting as much autonomy as possible to state secondary and primary schools. Local Management Schools (LMS) in which schools took control of much of their expenditure, city technology colleges (CTCs) and grant-maintained schools (GMSs) were the spearheads of the reforms. Indeed grant-maintained schools and CTCs were given, as independent incorporated bodies, freedoms unknown for decades outside the private sector of education.

Alas, the subsequent Labour government returned all to local authority control, except the few CTCs. However, the flame of freedom did not totally die out, as Amy Woolfson explains. Labour's Academy programme produced in ten years just over two hundred schools which had the same kind of autonomy as grant-maintained schools. In 2010 Michael Gove hit the ground running, and, with the 2010 Education Act, made it possible for state schools once again, as independent "converter" or "sponsored" Academies, to set their own spending and professional priorities free of local authority interference. To date some 4000 schools have taken advantage of this policy and I have no doubt that their standards will rise as a result.

Amy Woolfson asks some important questions concerning the future of these Academies, Ofsted inspection, chains of schools, and also selection. I commend her thorough research and her cogent recommendations which will, I know, inform the debate as we go forward with our education reforms.

The Society of Conservative Lawyers is an association of lawyers who support or are sympathetic to the aims of the Conservative Party. Members hold a range of different views within those parameters and the views expressed in this paper are not necessarily held by all members of the Society or by the Conservative Party.

The Rt Hon the Lord Lingfield Kt DL

I. Introduction

Schools in England come in many different forms. Over the past decade a political consensus has begun to emerge recognising that schools perform best when they are free from direct state control. At the same time it is essential that schools that are funded by taxpayers' money are accountable for how that money is spent.

This paper will survey the current education landscape in England and propose a number of incremental, achievable reforms that could help further to improve parental choice, school performance and accountability. Education is a devolved matter and so this paper will deal solely with education policy for England.

Legislation from 1944 onwards provides that the state has a number of duties with respect to education, some of which are discharged by the Secretary of State and others by local authorities.

The Secretary of State has a general obligation to promote the education of the people of England (s.10 Education Act 1996). Stemming from this are powers to oversee and direct schools and other publicly funded education institutions. The Secretary of State has a wide range of associated functions, such as school admissions, school closures and the power to make appointments to governing and local authorities' committees. The Secretary of State has the power to issue guidance to local authorities and maintained schools and to see that local authorities properly perform their education functions. The Secretary of State is also responsible for appointing the chair and members of the school inspection organisation, Ofsted.

Local authorities in England have a legal duty to make sure there are sufficient primary and secondary schools available for their area (s.14(1) Education Act 1996). This duty can be traced back to s.8 Education Act 1944. Local authorities receive a grant (known as the Dedicated Schools Grant) to help them discharge their education duties.

Traditionally, local authorities have discharged their education duties by operating maintained schools. In a typical maintained school, the school buildings would be owned by the local authority, the teachers would be directly employed by the local authority and the local authority would be responsible for admissions, finance and capital investment. The local authority would also be represented on the school's governing body.

Two notable but ultimately limited exceptions to this model were introduced by the Education Reform Act 1988: City Technology Colleges and Grant-Maintained Schools.

City Technology Colleges were new schools in urban areas, supported by private sector sponsorship. City Technology Colleges (CTCs) were and are free to attend and received funding direct from central government, rather than via their local authority's Dedicated Schools Grant. CTCs have an emphasis on technological and practical skills. For example, the BRIT school in Croydon was established in 1991 as a CTC with a focus on music and the performing arts. The school is sponsored by the British Record Industry Trust. Alumni include Adele, Jessie J and Amy Winehouse.

CTCs, as a forerunner of the Academy project have been described as a "profound success".¹ Of the 15 CTCs established in the late 1980s, all are still open but only three continue to operate under the CTC model, the rest having converted to Academies in the mid-2000s.

1 Adonis, A., 2012, *Education, education, education*, London: Biteback at p.90

Conversion to Grant-Maintained status gave established schools the opportunity to opt out of local authority control and receive funding from central government rather than via their local authority's Direct Schools Grant. The school's governing body would be reconstituted free of local authority involvement and the governing body would typically become the owner of the school's property and the employer of school's staff. The governing body would also be gain responsibility for the school's admissions policy.

A governing body's decision to become Grant-Maintained had to be ratified by a ballot of parents. Grant-Maintained schools tended to perform better than similar schools that remained under local authority control: those schools that narrowly voted in favour of Grant-Maintained status experienced a significant improvement in the proportion of pupils achieving the equivalent of five or more GCSEs at A*-C grade – increasing by roughly 0.25 standard deviations for each additional year the school is open – compared to the narrow vote losers.² By 1998, Grant-Maintained schools comprised nearly a quarter (23%) of secondary schools and around 3% of primary schools.³ Grant-Maintained schools were brought back under local authority control by the School Standards and Framework Act 1998.

The New Labour government introduced City Academies in 2000. Similar to City Technical Colleges and Grant-Maintained Schools, City Academies were state schools free of local authority control. City Academies were established in disadvantaged urban areas with the aid of a sponsor, who was expected to play an ongoing role in the management and governance of the school. In 2002, the Academy model was extended to disadvantaged rural areas. The Academy model brought with it the freedom to vary:

- Staff terms and conditions.⁴
- The curriculum.
- Size and composition of the governing body.
- Length of school days and terms.

Academies were introduced as a model for replacing failing local authority schools. Typically, the school would be closed (and demolished) and a replacement Academy school would be built on its site. An early example is the Richard Rogers-designed Mossbourne Academy, which replaced the Hackney Downs School in 2004.

In 2006 parliament legislated to allow Academy sponsors to bid to establish wholly new schools where a local authority identified a need for a new school.⁵ Responding to a parliamentary question in March 2010, the then Minister of State for Schools and Learners, Vernon Coaker MP said that New Labour had opened 203 Academies and had plans to open another 100 by the end of the year.⁶

How are Academies funded?

Academies receive their funding direct from central government, via, as was the case with City Technical Colleges and Grant-Maintained schools, a funding agency. Each Academy enters into a funding agreement with the Secretary of State. The funding agreement is “the contract every Academy trust signs with the Secretary of State to become an Academy. It provides the operating framework for the Academy”.⁷

2 Clark, D, 2009, *The Performance and Competitive Effects of School Autonomy*, quoted by O'Shaughnessy, J., 2012 *Competition meets collaboration*, London: Policy Exchange

3 The National Archives, 2010, *Department for Education and Employment: Grant-Maintained Schools: Database, Reference ED 278*, [online], available at <http://discovery.nationalarchives.gov.uk/SearchUI> [accessed 13 July 2014]

4 Subject to the Transfer of Undertakings (Protection of Employment) Regulations

5 S.7 Education and Inspections Act 2006

6 Hansard, HC Deb, 8 March 2010, c15

7 Department for Education, 2014, *Documents for schools wishing to convert to academy status*. [online] Available at www.gov.uk [accessed 4 May 2014]

Academy funding has two main elements; a per-pupil allocation, which is equivalent to the per-pupil funding that a maintained school in the area would receive, plus a Local Authority Central Spend Equivalent Grant (LACSEG) which is designed to cover the cost of services that local authorities provide on behalf of maintained schools, but that Academies are free to buy elsewhere (e.g. human resources, building services).

Conservative Party policy on Academies

In opposition, the Conservative Party were broadly supportive of the Academies programme but argued that it did not go far enough, fast enough. Conservative MPs argued that successful schools were being denied the opportunity to gain Academy freedoms.

The 2010 Conservative Manifesto contained a promise to give all schools the chance to achieve Academy status, with “outstanding” schools pre-approved, and to extend the Academy programme to primary schools.

The Academies Bill gained Royal Assent on 27 July 2010. Since then the number of Academies open in England has grown dramatically. As of July 2014 there are 3980 Academies open in England, including 2014 primary schools and 109 special schools.⁸ Of all the Academies open by July 2014, 2857 (72%) are Converter Academies, that is to say successful schools that have taken the opportunity to convert to Academy status without a formal sponsor. But the coalition has also developed the sponsored Academy route initiated by the previous government. There are now a total of 1123 sponsored Academies in England.

Schools that are underperforming are encouraged to find a sponsor to help them to become Academies. In cases where an underperforming school does not take steps to improve or find a sponsor, the Secretary of State has the power to make an Academy Order requiring the school to become a sponsored Academy.⁹ A high profile example of this power in action is the former Downhills Primary School in Haringey, which in September 2012 reopened as Harris Primary Academy Philip Lane. Responding to a parliamentary question in October 2012, the then Education Minister Elizabeth Truss MP stated that Academy Orders had been used in four schools to date.¹⁰

2. Do Academy schools work?

A 2010 study by the National Audit Office was able to identify “a clear lift in performance” in schools that became Academies, and an increase in the rate of improvement in GCSE results compared with trends in their predecessor schools.

In 2011, researchers from the London School of Economics came to similar conclusions, finding also that Academies had a positive effect on performance in neighbouring schools (Machin & Vernoit, 2011).

In his 2012 report for Policy Exchange former Downing Street adviser James O’Shaughnessy, points to evidence that Academy schools raise standards and that Academy chains can be particularly effective in improving school performance:

The 2011 Secondary School Performance Tables showed that some Academy sponsors saw large improvements across their schools. Between 2009/10 and 2010/11, Harris Academies saw an average improvement of 13.1 percentage points, ARK 11.0 percentage points, Oasis

⁸ Department for Education, 2014, *Open academies and academy projects in development* [online], available at www.gov.uk [accessed 6 August 2014]

⁹ s.4 Academies Act 2010

¹⁰ Hansard, 15 Oct 2012 : Column 199W

9.5 percentage points and ULT 7.5 percentage points in the proportion of pupils gaining 5+ A*-C including English and mathematics. Across all state-funded schools, the rate of improvement was 3.1 percentage points.¹¹

More broadly, the Organisation for Economic Cooperation and Development (OECD) has stated that: “when autonomy and accountability are intelligently combined, they tend to be associated with better student performance.”¹² And analysis of PISA data suggests that increased autonomy improves student achievement in developed countries.¹³

3. How can we help schools continue to improve?

A feature of the new schools landscape is that many Academy schools are associated with a chain. Many of these chains (such as Harris and ARK) have their roots in the last government’s sponsored Academies but have now grown to incorporate post-2010 sponsored Academies and, in some cases, post-2010 converter Academies.

The concept of an Academy chain is loosely defined and in some contexts is used to discuss less formal associations between schools. But for the purpose of this paper, we will adopt the definitions used by Robert Hill in his report for the National College of School Leadership:

- A sponsored Academy chain is one where a lead sponsor is sponsoring or responsible for three or more Academies.
- A converter Academy chain is one where, regardless of performance, a school has decided to convert as part of a formal partnership or chain agreement and has stated this on their application for Academy status.¹⁴

Many chains will contain just two or three schools. But there has been an upward trend in the number of large chains. This is likely to continue, not least because of the chains’ plans for expansion and the drive to bring more primary schools into the Academy system. In April 2012, the largest nine chains controlled a total of 182 Academies (either opened or planned).¹⁵ By July 2014 these same nine chains controlled 342 Academies.¹⁶

Membership of an Academy chain can bring many benefits, for example:

- Economies of scale, saving money in administration
- Opportunity to “grow your own leaders” within the chain
- Opportunity to extend the impact of successful chains
- A stronger brand to attract parents and applications for admission.

James O’Shaughnessy points to research that suggests that schools in Academy chains are starting to outperform similar stand-alone Academies or those in chains of two. Based on the data available at the time, it appeared that the benefits were maximised when the chain comprised around 10 schools.¹⁷

11 *Competition meets collaboration*, (2012), O’Shaughnessy, J, London: Policy Exchange

12 *Education at a Glance 2013: OECD Indicators*, Organisation for Economic Cooperation and Development, 2013

13 Hanushek EA et al, 2011, *Does School Autonomy Make Sense Everywhere? Panel Estimates from PISA*, Discussion Paper no. 6185, IZA: Institute for the Study of Labor: Germany

14 Hill R. et al, 2012, *The growth of academy chains: implications for leaders and leadership*, Nottingham: National College of School Leadership

15 *Ibid*, at p.8

16 *Ibid*

17 *Ibid*, at p.39

However, growth brings risks too:

- A weakening of the personal relationships/local knowledge that made the original chain so successful.
- Resources being diverted from developing existing schools to expansion for its own sake.
- Chains becoming overly bureaucratic as they grow.

And Ofsted has warned that being part of an Academy chain is “no guarantee of success or insurance against areas of weakness”.¹⁸

Formal accountability of Academy chains is weak. To date, the relatively small number of chains and the relatively small size of these chains have meant that few instances have surfaced of poorly performing chains. But as the Academies programme continues to expand and as parents and stakeholders quite rightly continue to raise their expectations, more questions will arise over the suitability and or capability of all Academy chains to raise standards and spend taxpayers’ money effectively.

Recommendation one: Give Ofsted the power to investigate Academy chains to the same extent it can inspect local authority education departments

A local authority that carries out education functions may be inspected for one of two reasons: either the Secretary of State will formally request that Ofsted conduct an inspection; or Ofsted may use its own discretion to initiate an inspection.¹⁹ But there is no equivalent method by which an Academy chain can be inspected, despite the fact that it is likely to be performing the same functions that would be susceptible to inspection if they were carried out by a local authority.

This apparent anomaly has been well publicised. In April 2014 Public Finance magazine quoted the Chief Inspector of Schools as saying “We inspect local authorities where we see a significant number of schools not doing well. It seems only fair and equitable that we inspect Academy chains”. Labour have capitalised on this – in David Blunkett’s policy review he states: “all elements of the education service would be inspected, as recommended by the Chief Inspector of Schools”.²⁰ In *Competition meets collaboration*, James O’Shaughnessy noted that:

“...good quality chains [are likely to] welcome this development because they feel that, at the moment, too many weak chains are being allowed to expand too quickly which tarnishes the programme overall.”

He also commented that “a light-touch inspection with frequency linked to quality is a feature of more mature public sector markets; there is nothing to fear from introducing such a regime so long as it is proportionate.”

So, if inspection of chains were introduced, how might it work and what might it cost?

The power to inspect a local authority in the performance of its education functions derives from s.136 Education and Inspections Act 2006:

(1) The Chief Inspector may inspect—

- (a) the overall performance by any local authority in England of the functions to which this Chapter applies, or

¹⁸ Ibid, quoted in Hill at p. 26

¹⁹ s.136 Education and Inspections Act 2006

²⁰ Blunkett, D., 2014, *Putting students and parents first*, London: the Labour Party

(b) the performance by any such authority of any particular function or functions comprised in the functions to which this Chapter applies.

(2) An inspection under subsection (1) of the performance by an authority of any function must include an inspection of any related activity.

(3) When requested to do so by the Secretary of State, the Chief Inspector must conduct an inspection under this section in relation to the local authority specified in the request.

(4) Such a request may specify particular matters which the Chief Inspector must inspect.

This would need to be amended to give Ofsted the power to inspect Academy chains. A simple way to do this would be to rephrase s.136(1) as follows:

(1) The Chief Inspector may inspect—

(a) the overall performance by any body corporate in England of the functions to which this Chapter applies, or

(b) the performance by any such body corporate of any particular function or functions comprised in the functions to which this Chapter applies.

Strengths

- Would improve accountability of chains.
- Inspecting Academy chains on the basis of risk would target Ofsted resources to those needing the closest scrutiny.

Weaknesses

- Likely to require changes to primary legislation.

Opportunities

- As fewer local authorities carry out “education functions” over time, savings are likely to be made on current s.136 inspections if no changes are made. Therefore some of the cost associated with bringing Academy chains into the inspection regime would be offset by a reduction in traditional s.136 inspections of local authorities.
- Some savings could be achieved by reforming the existing inspection programme, as described later in this paper.

Threats

- Although some chains have indicated that they would welcome inspection, there may be hostility in practice.
- Some of the cost of the extra inspections could be met through fees, (as with Ofsted-inspected fostering and adoption services) but this is unlikely fully to cover costs and may be politically difficult to implement.

A second issue emerging with Academy chains is that member schools have little power to hold their sponsor to account. Only the Secretary of State has the power to “sack” a sponsor. For example, in February 2014 the Department for Education terminated E-Act’s funding agreement for 10 of its 34 schools, after a series of poor inspections.²¹

21 BBC News, 25 February 2014, *E-Act chain loses control of 10 academy schools*, [online], available at www.bbc.co.uk [accessed 13 July 2014]

There are a number of reasons why the lack of a mechanism to allow schools to hold their sponsors to account could become increasingly problematic:

- A sponsorship relationship that serves an Academy well at first may become less beneficial over time, particularly if there are staff changes.
- A school that had become a sponsored Academy because of historic poor performance may become good or outstanding and quite legitimately wish to go it alone or transfer to a different sponsor.
- As chains continue to innovate, an alternative sponsor may develop a better offer for the school.
- And if there is no possibility of a school leaving a chain, this risks the type of inertia which leaving local authority control was intended to address.

This has been picked up on by the opposition. Labour’s policy review suggests that schools should be “free to move between partnership, federation, trust or Academy chain” and that “a review should be undertaken by the incoming Secretary of State, in collaboration with existing sponsor chains, to examine how such reconfiguration might be achieved without disruption or unnecessary top-down interference.”²² This sounds eminently sensible.

Recommendation two: Allow Academies to renegotiate their relationship with their sponsor/chain or, if they are judged to be outstanding, to become “converter Academies”.

How may a funding agreement be terminated at present?

Under s7.1 of the Department of Education (DfE) Academy Model Funding Agreement²³ either the school or the DfE may terminate the agreement by giving at least seven Academy Financial Years’ notice. The Secretary of State may also terminate the agreement at much shorter notice in certain circumstances, such as where there is serious underperformance.

How could a more flexible system be introduced?

As the funding agreement is the main instrument governing the relationship between the school and the DfE, many changes could be effected simply by moving to a more flexible funding agreement.

This would be relatively straightforward for newly established Academies, as they could be set up with a funding agreement incorporating this flexibility. It would be potentially more difficult for existing Academies as their funding agreements can only be varied by agreement.

Strengths

- Would make Academy chains more accountable.
- Would give parents and governors greater choice.
- Unlikely to require changes to primary legislation.

Weaknesses

- Risk of a school leaving a chain may reduce incentives for strong chains to sponsor underperforming schools.

Opportunities

- Should improve chain performance by reducing the risk of complacency.

²² Labour policy review, *ibid*

²³ *Academy Model funding agreement*, March 2014, Department for Education

- Would allow new chains to continue to emerge rather than for innovation to slow as the proportion of Academies to all schools rises over time.
- Would help to cement cross party support for Academies.

Threats

- Risk that other schools in a chain may be destabilised by departure of an individual school.
- May need to compensate sponsors for changes to existing funding agreements.
- Need a notice period sufficient to lock in improvement and avoid unnecessary change at a school.

Reducing the burden of inspection on schools that are performing well

As discussed, one feature of the new schools landscape is that many schools have begun to organise themselves into Academy chains. Many other schools are entering into relationships with other schools which fall short of a formal chain or sponsorship relationship but nonetheless involve far closer working than prior to 2010. This means that more and more schools are benefitting from opportunities to challenge and develop one another in order to improve performance.

Another development is the increased use and understanding of data in school settings. It is now easier than ever to collect data about student performance and improvement, and to flag potential problems at the earliest stage. Indeed, many of the best performing chains (e.g. Harris) already use student data as a tool to improve performance.

In this context, it is reasonable to ask whether Ofsted might be able to take a step back from well performing schools that have developed their own mechanisms to monitor and raise performance.

How does Ofsted inspect at the moment?

There are two main ways in which Ofsted inspects schools, both of which are founded in the Education Act 2005.

All schools are subject to inspections under s.5 Education Act 2005. These are short inspections which take place at least every five years, unless the school becomes exempted. The length of the inspection varies with the size of the school, but for a typical secondary school with 801-1100 pupils an inspection will last for 8 inspector days on site plus one preparation day.²⁴

The result of the inspection is that the school will be rated “outstanding”, “good”, “requires improvement” or “inadequate”.

A school rated as “outstanding” will be exempt from further s.5 inspections, provided that it meets data monitoring targets on an annual basis commencing three years after the s.5 inspection.

A school rated as “good” will be subject to data monitoring after three years but will nonetheless receive a further s.5 inspection no later than five years from the previous inspection.

A school rated as “requires improvement” will have its next s.5 inspection within two years, and a third s.5 inspection two years hence. If the school does not improve it will likely be graded “inadequate” at this stage.

A school rated as “inadequate” will be subject to monitoring under s.8 Education Act 2005. If the school’s leadership has demonstrated capacity to improve the school, it will be classed as having “serious weaknesses”, monitored under s.8 and re-inspected within 18 months of the s.5 inspection.

24 Waldegrave, H. and Simons, J., 2014, *Watching the Watchmen*, London: Policy Exchange

Where the school is rated as “inadequate” and leadership has not demonstrated the capacity to improve, the school will be put into “special measures” and will usually receive its first s.8 monitoring visit within 3 months of being graded “inadequate”. There will typically be a series of s.8 visits, and a further s.5 inspection within 24 months.²⁵

In the 2012/2013 academic year, Ofsted inspected a total of 7905 schools (just over a third of the schools in England), of which 10% were judged to be outstanding and 54% were judged to be good. By looking at the most recent inspection that a school had on file as at 31 August 2013, Ofsted judged that 20% of all schools in England were outstanding and 58% were good.²⁶

Does the inspection system work?

Ofsted is very effective at helping failing schools to improve and helping schools to achieve a Good rating. As the authors of *Watching the Watchmen* note:

“Around half of all schools graded Satisfactory [the predecessor to the “requires improvement” grade] subsequently improved to a Good rating in their next inspection. New analysis for this [Policy Exchange] report suggests that a Satisfactory Ofsted rating for secondary schools also most commonly leads to an increase in children passing GCSEs in subsequent years over and above general national increases. Ofsted has also performed well in identifying the worst performing schools, and through placing them into Special Measures, has ensured they have either been closed or taken over and reopened as Academies.”

But there is less evidence that Ofsted is the right body to help schools move from good to outstanding. And there is an argument that Ofsted should focus its attention on the many schools that are still not yet good. This is already partially reflected in the inspection regime described above, but it could go further.

Recommendation three: Reduce the frequency of s.5 inspections for good schools. Introduce a peer-review style of inspection and development to help develop schools from good to outstanding.

How might it work?

Following a “good” s.5 inspection a school would continue to be subject to data monitoring, but would only be re-inspected if the data suggested that the school had fallen below “good” standards or that a re-inspection may lead to an “outstanding” grading.

Policy Exchange suggest that a way to help to embed a peer review culture in schools would be to restrict an outstanding rating to those schools that were “engaged in a serious and meaningful way in some form of school to school improvement with other schools – as chosen by the school itself.”²⁷

It is outside of the scope of this paper to be overly prescriptive about how a peer review system might work, but the think tank *Reform* give two interesting case studies in their 2012 paper *Plan A+ Unleashing the potential of academies*:

25 Ofsted, 2014, *Framework for inspection*, [online], Ofsted, Available at www.ofsted.gov.uk [accessed 4 May 2014]

26 Ofsted, 2013, *2012/13 Annual Report*, Ofsted [online] available at www.ofsted.gov.uk [accessed 5 May 2014]

27 *Watching the Watchmen*, at p56, ibid

Case study: The HertsCam network

HertsCam is a network linking Hertfordshire schools with the University of Cambridge Faculty of Education. The university facilitates teacher development both in a formal, certificated context (which includes a master's programme) and through a teacher-led development work (TLDW) programme, which has groups based in each of the participating schools and leads to a postgraduate certificate.

In each school, the TLDW groups are led by an experienced teacher who is often a member of the senior leadership team. Participants come together in twilight sessions to minimise costs to the school. The group provides support to enable them to plan development projects designed to improve their own and their colleagues' practice. They discuss their work in a structured, supported way. It builds distributed leadership within the schools, allows teachers to be comfortable challenging each other and helps them to plan how what they do will have impact on pupil outcomes. Due to its bottom-up approach and self-reflective nature, TLDW is effective at targeting teachers' and schools' particular weaknesses and is felt by the teachers involved to be an inclusive form of CPD. It allows teachers to realise that everyone has areas for improvement in their teaching and enables them to see how best to respond to them, thereby nurturing resilient thinking. TLDW can also be used as part of a school's performance management regime if desired.

Case study: Challenge Partners

The Challenge Partnership is a network of over 70 schools across England. In contrast to a chain or sponsor setup, the partnership works on a mutual rather than top-down basis, offering a looser arrangement but with deep collaboration with other schools in the network. The partnership is principally a school-led school improvement network, although it also provides other benefits such as group procurement. The centrepiece of Challenge Partners' approach to school improvement is peer accountability:

“The partnership's quality assurance and assessment is built around a professionally led peer review focused on teaching and learning. The review highlights areas of strength, including outstanding knowledge within hubs and across the Partners; and it also identifies those areas for development, bringing key challenges to schools for the coming year.

The strength of the review lies in how it brings together the rigour and professionalism of Ofsted with the care and collaborative approach of a partnership. This is a joint exercise between the review team and the school. All observations and meetings include a member of school team working alongside the reviewers. Discussion about the findings and even the writing of the report are a collaborative effort between the review team and the school's senior leadership team. This approach enables honest and open conversations about where the school is and where it is going, to the benefit of all concerned.

Another of the significant benefits that the review brings is the development opportunities for senior staff. By nature of being a peer review, conducted by current practitioners, those on the review team itself receive a rich developmental experience as they step into another environment working alongside a trained Ofsted inspector; experiences and learning which they can then take back to their own school.

Following the review, Partners meet together in their hubs to discuss the outcome of the review and determine how they can best work together to capitalise on their strengths and address their areas for development.”

This approach – including the sharing of detailed data about the school's performance – allows for uniquely targeted school improvement work and builds a crucial relationship of trust between the partner schools, facilitating effective mutual accountability creating a culture where it is accepted for peers to challenge underperformance.

Strengths

- Encourages school leaders to work together to develop schools from good to outstanding.
- An additional incentive for school leaders to bring schools up to “good” standard.
- Reduces burden of inspection on good schools, likely to be popular with teachers.
- Could likely be achieved via regulations rather than primary legislation.

Weaknesses

- May encourage good schools to coast rather than aim for outstanding status.

Opportunities

- Resources would be focused on schools where Ofsted is likely to have greatest impact.
- Savings could help fund inspection of Academy chains.
- Would build on success of existing peer-review/development schemes.

Threats

- Without careful data monitoring, standards at good schools could slip.
- Would need to set upper and lower boundaries for re-inspection with great care and consultation.

Giving grammar schools the opportunity to grow

What is a grammar school?

A grammar school is a school that selects its pupils by academic ability, usually by way of the 11 plus exam. Whilst some independent schools may be described as grammar schools (e.g. Manchester Grammar School), the discussion here is focused on state funded schools. Grammar schools were at their peak from the late 1940s to the mid-1960s. Since s.99 School Standards and Framework Act 1998 was enacted it has been unlawful to create new academically selective schools.

The table below compares data on grammar schools at their peak (with the peak year given in brackets) and in 2012.²⁸

	At peak (year)	2012
Number of grammar schools	1,298 (1964)	164
Number of pupils in grammar schools	726,000 (1964)	161,000
% of secondary school pupils in grammar schools	37.8 (1947)	5.0

Where are the grammar schools?

Grammar schools tend to exist alongside secondary modern schools (although today many do not describe themselves as such). According to the House of Commons Library:

Seven Local Education Authorities (LEAs), out of the 151 with secondary schools, have a fully selective system (grammar and secondary modern schools). A further 29 have partially

28 House of Commons Library Note SN/SG/1398, 2013, Grammar School Statistics, London: House of Commons Library

selective secondary systems (grammars/secondary moderns alongside comprehensives). There were 133 secondary modern schools in England at the end of January 2013.

The seven local authorities that have maintained fully selective systems are Trafford, Buckinghamshire, Slough, Torbay, Southend, Kent and Medway.

Do grammar schools work?

The results indicate that they do, both in absolute and value-added terms.

In absolute terms, one would of course expect a group of students who had been academically selected to perform better than an academically mixed group students.

However, by tracking the performance of those students who had done similarly well at primary school, data suggests that students who go on to study at grammar school tend to do better than those who complete their secondary education in a comprehensive school.

Analysis by the House of Commons Library showed that 98% of grammar school pupils who were achieving above level 4 (level 4 is the expected level) at the end of primary school achieved 5+ GCSEs/ equivalent at grade A*-C including English and maths compared to 94% in comprehensive schools and 92% in secondary moderns. However, as the analysis goes on to note, there can be a wide variation in attainment above level 4.

Much of the opposition against expanding or creating grammar schools comes from a belief that they drive inequality and are detrimental to children who do not pass the 11 plus. There is evidence to suggest that grammar schools increase inequality²⁹ but as Toby Young has argued, this could be interpreted as a sign that grammar schools are more meritocratic than their comprehensive counterparts.³⁰

Regardless of the outcomes for children studying at grammar schools, it would certainly appear that children from poorer backgrounds are under-represented in grammar school intakes. A 2008 study by the Sutton Trust found that only 2% of the top performing pupils in grammar schools were in receipt of free school meals compared to 5% of the top performing pupils in comprehensive schools.³¹

Even if the case for a large scale expansion of the grammar school programme is mixed, it is clear that existing grammar schools are very popular with parents. And it would be consistent with ideas of free choice to allow successful and popular grammar schools to expand. There is an ongoing campaign in Kent to set up a grammar school in Sevenoaks, to act as an annexe of other grammar schools in the county. The campaign is supported by the Conservative-led council, local MP and Conservative cabinet member Michael Fallon as well as thousands of parents. A bid in the autumn of 2013 was rejected by the Department for Education³², but the Secretary of State indicated that he would be sympathetic to a revised bid, telling the Education Select Committee in December 2013 that:

“...should a future application come forward that is consistent with the law, of course I would approve it for a grammar school, as I would for any other school that is good and that wishes to expand.”³³

29 See for example Burgess. et al, 2014, *Selective Schooling Systems Increase Inequality*, Institute of Education: London

30 Young, T. 2014, Let's make every school a grammar school, Telegraph Blogs [online], 29 May 2014, available at <http://blogs.telegraph.co.uk> [accessed 31 May 2014]

31 *Social selectivity of state schools and the impact of grammars. A summary and discussion of findings from 'Evidence on the effects of selective educational systems' by the Centre for Evaluation and Monitoring at Durham University*, Sutton Trust, October 2008 – quoted by in House of Commons Library note SN/SG/1398

32 BBC News, 13 December 2013, Sevenoaks grammar school annexe bids rejected, [online] available at www.bbc.co.uk [accessed 13 July 2014]

33 Secretary of State's uncorrected evidence to Education Select Committee December 2013 [online], available at <http://www.parliament.uk/business/committees/committees-a-z/commons-select/education-committee/publications/> [accessed 13 July 2014]

These comments appear to presuppose that it would be lawful to expand grammar schools onto new sites under the right circumstances.

Recommendation four: The Department for Education should publish guidance explaining under what circumstances a grammar school will be allowed to expand onto a new site.

Strengths

- No need to change primary legislation.
- Would indicate support to parents who wish to expand grammar schools in their areas.

Weaknesses

- Would not dramatically increase grammar school places.
- Unlikely to bring grammar schools to parts of the country that are fully comprehensive.

Opportunities

- Would help to deliver high quality school places in areas of need.
- Opening up new grammar school places could present an opportunity to broaden intake, which in turn may address some concerns about social selectivity.

Threats

- Could be politically difficult.
- Will not go far enough for some – may involve spending a lot of political capital for only modest gains.

4. Summary of Recommendations:

Recommendation 1

Give Ofsted the power to investigate Academy chains to the same extent it can inspect local authority education departments

Recommendation 2

Allow Academies to renegotiate their relationship with their sponsor/chain or, if they are judged to be outstanding, to become “converter Academies”.

Recommendation 3

Reduce the frequency of s.5 inspections for good schools. Introduce a peer-review style of inspection and development to help heads and school management develop schools from good to outstanding.

Recommendation 4

The Department for Education should publish guidance explaining under what circumstances a grammar school will be allowed to expand onto a new site.

For further information about the Society of Conservative Lawyers, contact Sarah Walker (Administrative Secretary) at socconlaw@aol.com

www.conservativelawyers.com

Printed by Carfax Cards Ltd
Tel. +44 (0)20 8748 1122 www.carfaxltd.co.uk

September 2014
ISBN 978-0-9501715-6-2

£5.00